

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

**IN RE PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE
LITIGATION**

MDL No. 1456

CIVIL ACTION: 01-CV-12257-PBS

Judge Patti B. Saris

**THIS DOCUMENT RELATES TO
ALL CLASS ACTIONS**

AFFIDAVIT OF NEW YORK STATEWIDE SENIOR ACTION COUNSEL

I, Michael Burgess, under the penalty of perjury, hereby declare as follows:

1. I am the Executive Director of New York StateWide Senior Action Counsel ("StateWide"). Our organization is a grassroots membership organization made up of individual senior citizens and senior citizen clubs from all of New York State. StateWide has over 100 dues-paying member organizations including Alexandria Bay Senior Citizens, Bell Aerospace Retirees Local 501, Canton Senior Citizens, United Auto Workers Retirees Chapter Local 1173 and 424, St. Lawrence County Council of Senior Citizens, New York State Nurses Association, Retired Educators Chapter/Syosset Teachers Association, and the New York Hotel Traders Council Pensioners.

2. StateWide, organized in 1972 with War on Poverty funds, focuses on the needs of low-income and minority seniors. StateWide continues to strenuously advocate for its membership to ensure strong protections in hospitals, nursing homes, and other community-based health care delivery systems.

08/25/2004 20:37 5184361006
08/25/2004 04:30 FAX 017 402 3003STATEWIDE SR ACTION
HAGENS BERMAN LLPPAGE 03
0003/004

3. StateWide's mission has been to develop a statewide organization of older New Yorkers who could advocate for their interests and needs regarding services, programs, and policies affecting older persons, including affordable prescription drugs.

4. StateWide includes members who are Medicare beneficiaries and who have made co-payments, based on AWP, for pharmaceuticals. StateWide also includes members who are not covered by healthcare insurance of any kind and who pay cash for some or all of their prescription medications.

5. StateWide is involved in the Pharmaceutical Average Wholesale Price litigation on behalf of our membership in order to fight against the abusive practices employed by pharmaceutical manufacturers to arbitrarily inflate the "average wholesale price" of prescription drugs covered by Medicare Part B and many others not covered by Medicare. We also join because this practice determines why certain drugs are prescribed more often than others and directly impacts the health care received by our members.

6. During the Class Period, StateWide's members paid for drugs that had AWP-based transaction prices.

7. StateWide appears in this action for purposes of seeking declaratory, injunctive and other non-monetary relief pursuant to 28 U.S.C. §§ 2201, 2202 § 16 of the Clayton Act and any other applicable statute.

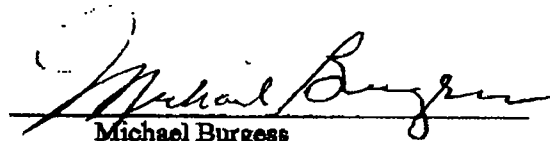
8. StateWide has been actively involved in the prosecution of this litigation and has enlisted the assistance of skilled and experienced class action counsel. StateWide's interests are not antagonistic to the interests of the members of the proposed Class.

08/25/2004 20:37 5184361006
08/25/2004 20:37 FAX 017 462 3003

STATEWIDE SR ACTION
MAGENS BERMAN LLP

PAGE 04
004/004

9. StateWide does not have the economic ability or incentive to prosecute a case of this magnitude individually against such well-financed defendants and therefore believes that a class is a superior device.


Michael Burgess
Executive Director